

ESTTA Tracking number: **ESTTA617092**

Filing date: **07/22/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217154
Party	Defendant Janoskians LLC
Correspondence Address	STEPHEN L. BAKER BAKER AND RANNELLS PA 575 ROUTE 28 RARITAN, NJ 08869-1354 officeactions@br-tmlaw.com;s.baker@br-t
Submission	Answer
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Signature	/Stephen L Baker/
Date	07/22/2014
Attachments	Baker-Rannells140722202139.pdf(52073 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Serial No. 86/085,785
Filing Date: October 8, 2013
Mark: DIRTY PIG

NASTY PIG, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91217154
)	
JANOSKIANS LLC,)	
)	
Applicant.)	

**ANSWER AND AFFIRMATIVE DEFENSES
TO NOTICE OF OPPOSITION**

Applicant, JANOSKIANS LLC, ("Applicant"), by and through its attorneys Baker and Rannells, PA, for its Answer to the Notice of Opposition filed by Opposer, NASTY PIG, INC, ("Opposer"), alleges on knowledge as to its own acts and otherwise upon information and belief as follows:

ANSWER

1. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 1 of the Notice of Opposition and therefore denies the same.
2. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 2 of the Notice of Opposition and therefore denies the same, except that it admits the issuance of the pleaded registration.

3. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 3 of the Notice of Opposition and therefore denies the same, except that it admits that Application Ser. No. 86114145 is pending and further denies it is relevant to these proceedings.
4. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 4 of the Notice of Opposition and therefore denies the same.
5. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 5 of the Notice of Opposition and therefore denies the same.
6. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 6 of the Notice of Opposition and therefore denies the same
7. Admitted.
8. Admitted
9. Applicant has insufficient knowledge or information upon which to form a belief concerning the allegations contained in Paragraph 9 of the Notice of Opposition and therefore denies the same.
10. Denied except that Applicant admits the marks of both parties include the term "pig".
11. Denied

AFFIRMATIVE DEFENSES

12. Applicant repeats and re-alleges the allegations of paragraphs 1-11 hereof as if set forth fully herein.

13. As and for a first defense, the Notice of Opposition fails to state a claim upon which relief can be granted.
14. As and for a second defense, the Notice of Opposition is barred by the acquiescence and laches.
15. As and for a third defense, the Notice of Opposition is barred by the doctrine of waiver and estoppel.
16. As and for a forth defense, the Notice of Opposition is barred by Opposer's failure to challenge the use of third party marks comprised in whole or in part of the term "pig" on related goods and services by unrelated third parties.
17. As and for a fifth defense, Applicant's mark DIRTY PIG falls far outside the scope of protection to which Opposer's mark may extend.
18. As and for a sixth defense, there are many 100's of third party "pig" and "pig" combination marks of record in the USPTO, thus rendering the "pig" element of Opposer's mark to be weak.
19. As and for a seventh defense, there were as many as 185 live third party live "pig" and "pig" combination marks of record in relevant classes in the USPTO at the time Opposer filed the application that resulted in Reg. No. 2800386, which Opposer admitted were not confusingly similar to Opposer's mark when it stated under oath in the application "...to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own

knowledge are true; and that all statements made on information and belief are believed to be true.”

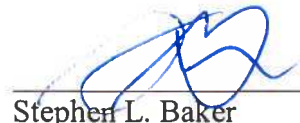
20. As and for an eighth defense, except for the within opposition, Opposer has never challenged a “pig” or “pig” combination mark before the TTAB, thus acquiescing in the ongoing and continued weakening of its alleged mark.

WHEREFORE, Applicant requests that the Opposer’s Notice of Opposition be denied and that Serial No. 86/085,785 be allowed to mature to registration.

Dated: July 22, 2014

BAKER AND RANNELLS, PA

By: _____


Stephen L. Baker
Attorney for Applicant
575 Route 28, Suite 102
Raritan, New Jersey 08869
(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served on Opposer by first class mail this 22th day of July 2014:

Joel Kami Schmidt
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036



Stephen L. Baker